

**PATENT APPLICATION**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first-class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

10-2-03  
Date

Cynthia Hagen  
Cynthia Hagen

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Christopher S. Piddington, Charles Petrie, Kimberly E. Shoemaker,  
                  Paul D. Bishop  
Serial No. : 09/978,385  
Filed : October 16, 2001  
For : ZACE2: A HUMAN METALLOENZYME  
                  Examiner : Moore, W.  
                  Art Unit : 1652  
                  Docket No. : 99-24C1  
                  Date : October 2, 2003

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**PETITION**

Sir:

Applicants respectfully petition for a refund of the extension of time fee of three months paid to allow response to the Office Communication dated June 2, 2003. This is because this communication was not received in our office until faxed to us by the Examiner on September 11, 2003.

The following exhibits are attached to support the non-receipt of this communication: (1) Copies of the pages of our "Received Prosecution" record book, dated 6/2/03-7/7/03, showing no receipt of any communications concerned with 99-24C1 (our docket number of this case) during this time period; and (2) a printout of our docketing system for case 99-24C1, indicating no outstanding Office Communication.

Based on the data of these exhibits, it is established that the Office Communication was not received by ZymoGenetics and therefore Applicants were unaware of any need to respond further for this application. It was not until the Examiner contacted Applicant concerning nonresponse to the Office Communication on September 11 that the existence of this letter was even known. Accordingly, Applicant should have at least 30 days to respond and has done so with the Response dated October 2 and mailed with this petition. Refund of the extension of time fee to our Deposit Account (or not charging the fee in the first place, if this is procedurally possible) is therefore justified under these facts.

Respectfully Submitted,



Michelle L. Johnson  
Registration No. 36,352

# Exhibit 1

158

Proj ct N . \_\_\_\_\_

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TITLE \_\_\_\_\_

From Page No. \_\_\_\_\_

5/27/03 - Cont'd  
 01-16PC Postcard - filing  
 00-19 " - Amendment  
 00-39 " - Amendment  
 99-01C1 " - Amendment/Notice of Appeal  
 01-30PC Search Report  
 99-14 Notice of Abandonment  
 01-44 Updated filing Receipt  
 00-77 Restriction Req.  
 09-23C2 Notice of Publication  
 00-103 Notice of Publication  
 97-72C1 Issue Notification  
 00-45 Notice of Abandonment  
 00-80C1 Office Action  
 98-59 Notice of Abandonment

5/29/03

01-18 Postcard - Amendment  
~~00-02C2~~  
 98-17C1 Postcard - Restriction

6/12/03

03-02P1 Filing Receipt  
 99-90 Office Communication  
 00-42 Notice of Publication of Application  
 01-25 Notice of Publication of Application  
 02-05 Filing Receipt  
 96-06C3 Postcard  
 97-71 " Postcard  
 00-83 " - Response Dst Reg  
 00-10 " - App  
 99-43 Office Action  
 01-16 Notice of Publication  
 01-05 Notice of Publication  
 00-41 Office Action

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Recorded by

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5. Page 118.

6/13/02

- 00-24 Office communication  
02-07 Filing Receipt  
98-55D1 Filing Receipt  
02-09C2 Notification Concerning Payment of Prescribed Fees  
97-09C4 Maintenance Fee Statement  
00-49 Office communication  
99-87C1 Postcard - Amendment  
00-02C1 " - Missing parts  
00-33 " - Response  
97-44C2 Issue Notification  
97-30C1 Issued Patent

6/19/02

- 97-30C3 Filing Receipt  
00-1000PC Search Rpt  
00-108PC Search Rpt  
98-29C2 Office Action

6/4/03

- 98-11 Office Communication  
6573.069 Issued Patent  
00-37 Restriction Req  
99-01C1 ADVISORY ACTION  
00-72 Notice of Abandonment  
00-90 Office Action  
98-29D1 Office Action  
97-65 Issued Patent

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6/19/03

- 02-02C4 Postcard  
00-42 Postcard  
02-08PC Notification Concerning Payment of Prescribed Fees  
97-30C2 Filing Receipt  
99-106 Notice of New or Revised Projected Publication Date  
97-69 Postcard  
97-05D3 Office Communication

To Page No. \_\_\_\_\_

Received &amp; Understood by me,

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Date

Project No. \_\_\_\_\_

Book No. \_\_\_\_\_

TITLE \_\_\_\_\_

Page No. \_\_\_\_\_

6/09/03 cont'd

6,573,089 copies of issued patent

99-06C1 Postcard - app

00-84 " Amendment

01-12 Notice of Publication

99-W3C1 Notice of Publication

01-87 Notice of Publication

00-19 Notice of Non-Compliant Amendment

99-17C1 Office Action

96-24C2 Mixed Previous Pub Date

00-L3 "

97-28C1 "

a-7A "

00-32 "

00-39 "

00-37 "

00-31 "

6/10/03

96-41D1 Postcard

99-61 "

00-88 "

99-108D1 "

00-81 "

00-16D1 "

99-64C1 "

00-39 "

99-108 "

98-73C1 "

99-42 "

99-94 "

99-44 "

99-104C1 "

99-70C1 "

97-11C2 "

99-107 "

97-73 "

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To Page No. \_\_\_\_\_

Project No. \_\_\_\_\_

Book No. \_\_\_\_\_

161

6/10/03 cont'd.

98-13J1 Postcard  
99-43 " "  
00-95 " "  
98-17C1 " "  
99-44C1 " "  
00-18 " "  
99-104 " "  
98-74 " "  
99-85 " "  
99-103C1 " "  
99-34 " "  
96-09J1 " "  
01-44 " "  
99-104C2 " "  
01-33 " IOS  
00-81 Restriction Req  
01-20PC Walter Criminal  
00-100PC Walter Opinion

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6/12/03  
97-52J1  
97-17C2  
99-29C1

Postcard

Notice of New or Revised Projected Publication Date

" "

6/13/03

99-16J1 Postcard  
98-36C1 Notice of New or Revised Projected Publication Date  
01-17 Notice of Publication of Application  
00-116 " "

12/03

99-104C2 Notice of publication  
98-70C1 Notice of Revised Pub Date  
97-11C2 Notice of Revised Pub Date

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Date \_\_\_\_\_

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Date \_\_\_\_\_

From Page No. \_\_\_\_\_

6/13/03 (Cont'd)

00-38C1 Notice of Revised Pub Date

00-28D1 Notice of Publication

01-20 Notice of Publication

97-15D1 Notice of Publication

00-99 Notice of Publication

02-10PC Invited to furnish Seq

6/16/03

98-60 Postcard - Certif of Correction

96-70D1 " - Certif of Correction

98-82 " - Response to Comm.

00-17 Restriction Reg

00-83 Office Action

01-28 Final Office Action

00-34C1 Office Action

00-67 Office Action

97-72C1 Letters Patent &amp; copies

00-81 Corrected Filing Receipt

02-01PC Postcard

6,576,755 Copies of Issued Patent

02-25P2 Filing Receipt

99-16D1 Postcard

00-03D1 Postcard

6,576,744 Copies of Issued Patent

97-65 Office Communication

97-72C2 Filing Receipt

6,576,744 Issued Patent (98-55)

6/17/03

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97-62D3 Office Communication

97-11C2 Corrected Filing Receipt

00-112 Postcard

00-42 "

03-08 "

00-02C1 Updated Filing Receipt

02-24P2 Filing Receipt

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Invented by

Date

Record d by

On Page No. \_\_\_\_\_

6/17/03 (Cont'd)

00-103 Postcard - IDS

00-02C1 Updated Filing Receipt

0092 Notice of Revised Pub Date

6/20/03

02-11PC Postcard

03-03 "

99-50C1 "

99-12D2 "

00-111 "

02-03 "

99-50 "

97-49C1 Notice of New or Revised Projected Pub Date

6/23/03

97-30 Postcard

99-42 Postcard

02-10 Filing Receipt

99-11D2 Postcard - Petition

99-69C1 " - Restriction

00-47 " - Restriction

02-14 " - app

00-12 Notice of Allowance

97-04D2 Office Action

97-04D1 Office Action

98-54 Office Action

99-103C1 Restriction

01-30 Notice of Publication

01-11 Notice of Revised Pub Date

00-12 Notice of Allowance

99-39D1 Notice of Revised Pub Date

99-51C1 Notice of Revised Pub Date

98-77D1 Notice of Revised Pub Date

01-21 Notice of Revised Pub Date

99-69C1 Notice of Pub

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B k No. \_\_\_\_\_

TITLE \_\_\_\_\_

From Page No. \_\_\_\_\_

6/23/03 (Cont'd)  
 00-8CC1 Notice of Revised Pub Date  
 99-81D1 Notice of Sale

6/24/03		
02-05	Filing Receipt	
01-40PC	Notification of Receipt of Demand	
93-2D1	Suspension Notice	
93-2D2	"	"
93-2D3	"	"
93-2D4	"	"
93-2D6	"	"
93-12C4	"	"
93-12C5	"	"
93-12D7	"	"

6/25/03  
 99-49 Office Communication

6/26/03  
 00-15 Postcard

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6/27/03  
 01-33 Postcard - Missing Party

6/30/03  
 6265541 Postcard - request for a certificate of Corporation  
 97-30C3 Postcard  
 00-9C Postcard  
 98-5C Postcard  
 99-11D2 Decision Granting Petition  
 02-05 Filing Receipt  
 02-15 Postcard - app  
 99-40C1 " - app  
 02-14PC " - app  
 87-19C9 Notice of Amendment  
 01-11 Restriction Reg

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From Page No. \_\_\_\_\_

6/30/03 (Cont'd)

01-30PC Receipt of Demand

01-(SPC) Writer's Opin

99-06C1 Noticed Incomplete App

00-23 Restriction Reg

99-87C1 Office Action

95-36C1 Restriction Reg

7/1/03

95-108D1 Filing Receipt

7/2/03

96-41G1 Office communication

99-11D2 Petition Decision

01-13PC Search Rpt

01-(SPC) Search Rpt

7/3/03

95-44 Corrected Filing Receipt

02-15PC Postcard + app

99-103 Recordation of Assignment

7/7/03

00-24 Postcard

97-17C2 Postcard

98-79D2 Postcard

97-17C2 Postcard

99-10 Office Communication

99-21D1 Notice of publication

99-02 Office Communication

99-41 Office Communication

00-78 Postcard - Issue fee

01-15 " - response

01-20PC " - response

00-92 Restriction Reg

00-73 Office Action

98-70C1 Restriction Reg

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## Exhibit 2

Thursday, October 02, 2003

### Prosecution History for USSN 09/978,385

Page: 1

Case Number	Sub	Countr	Attorney	Date	Reason for Date/ Due Date	Action	Application	Filing	Status
99-24	C1	US	MJ	16-Jan-2002	Response Due Due Date 10-Jan-2002	US-Missing Parts Date Taken 10-Jan-2002	09/978,385	16-Oct-2001	Published
				<b>Resp. Sent</b>					
99-24	C1	US	MJ	16-Jan-2002	Information Disclosure Submit Due Date	Information Disclosure Submit	09/978,385	16-Oct-2001	Published
99-24	C1	US	MJ	16-Feb-2002	1st Extension Reminder 10-Jan-2002	US-Missing Parts Date Taken 10-Jan-2002	09/978,385	16-Oct-2001	Published
				<b>Resp. Sent</b>					
99-24	C1	US	MJ	16-Mar-2002	2nd Extension Reminder 10-Jan-2002	US-Missing Parts Date Taken 10-Jan-2002	09/978,385	16-Oct-2001	Published
				<b>Resp. Sent</b>					
99-24	C1	US	MJ	16-Apr-2002	Foreign Filing Reminder Due Date	Foreign Filing Foreign Filing Due Date	09/978,385	16-Oct-2001	Published
99-24	C1	US	MJ	16-Apr-2002	3rd Extension Reminder 10-Jan-2002	US-Missing Parts Date Taken 10-Jan-2002	09/978,385	16-Oct-2001	Published
				<b>Resp. Sent</b>					

Thursday, October 02, 2003

**Prosecution History**

Page: 2

Case Number	Sub	Countr	Attorne	Date	Reason for Date/ Due Date	Action	Application	Filing	Status
99-24	C1	US	MJ	13-May-2002	Request for Examination Due Date	Substantive Examination	09/978,385	16-Oct-2001	Published
99-24	C1	US	MJ	16-May-2002	4th Extension Reminder	US-Missing Parts Date Taken 10-Jan-2002	09/978,385	16-Oct-2001	Published
99-24	C1	US	MJ	16-Jun-2002	Final Deadline Final	US-Missing Parts Date Taken 10-Jan-2002	09/978,385	16-Oct-2001	Published
99-24	C1	US	MJ	10-Jul-2002	US-Missing Part Follow Up Date	US-Missing Part Follow Up US-Missing Parts Date	09/978,385	16-Oct-2001	Published
99-24	C1	US	MJ	10-Jan-2002	Due Date	Due Date Date Taken 21-Feb-2002			
99-24	C1	US	MJ	27-Sep-2002	Due Date - Election Due Date	US-Restriction Requirement Date Taken 27-Feb-2003	09/978,385	16-Oct-2001	Published
99-24	C1	US	MJ	16-Oct-2002	Foreign Filing Due Final	Foreign Filing	09/978,385	16-Oct-2001	Published

Thursday, October 02, 2003

**Prosecution History**

Page: 3

Case Number	Sub	Countr	Attorne	Date	Reason for Date/ Action	Application	Filing	Status
99-24	C1	US	MJ	27-Oct-2002	1st Extension Reminder	US-Restriction Requirement	09/978,385	16-Oct-2001 Published
				Resp. Sent	27-Feb-2003	Date Taken 27-Feb-2003		
99-24	C1	US	MJ	27-Nov-2002	2nd Extension Reminder	US-Restriction Requirement	09/978,385	16-Oct-2001 Published
				Resp. Sent	27-Feb-2003	Date Taken 27-Feb-2003		
99-24	C1	US	MJ	27-Dec-2002	3rd Extension Reminder	US-Restriction Requirement	09/978,385	16-Oct-2001 Published
				Resp. Sent	27-Feb-2003	Date Taken 27-Feb-2003		
99-24	C1	US	MJ	27-Jan-2003	4th Extension Reminder	US-Restriction Requirement	09/978,385	16-Oct-2001 Published
				Resp. Sent	27-Feb-2003	Date Taken 27-Feb-2003		
99-24	C1	US	MJ	27-Feb-2003	Final Deadline Final	US-Restriction Requirement	09/978,385	16-Oct-2001 Published
				Resp. Sent	27-Feb-2003	Date Taken 27-Feb-2003		
99-24	C1	US	MJ	16-Apr-2003	Application Status Check Due Date	Application Status Check Due Date	09/978,385	16-Oct-2001 Published

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**RAM Fee History Query**  
Revenue Accounting and Management

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Name/Number: 09978385

Total Records Found: 4

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Tran Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/19/2001	00000070	<u>1</u>	<u>201</u>	\$370.00	10/16/2001	DA 260290
02/12/2002	00000064	<u>1</u>	<u>205</u>	\$65.00	02/08/2002	DA 260290
03/06/2003	00000152	<u>1</u>	<u>2255</u>	\$985.00	03/04/2003	DA 260290
10/09/2003	00000217	<u>1</u>	<u>2253</u>	\$475.00	10/06/2003	DA 260290